



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JULIUS JONES,

Petitioner,

-against-

WARDEN J.M. KILLIAN,

Respondent.
-----X

KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

MEMORANDUM AND ORDER

09 Civ. 10281 (RMB)(KNF)

Julius Jones ("Jones"), proceeding pro se and in forma pauperis, commenced this action, pursuant to 28 U.S.C. § 2241, alleging the Bureau of Prisons is violating his constitutional rights by not treating his state and federal sentences as concurrent. Before the Court is Jones' application for appointment of counsel.

"In deciding whether to appoint counsel, [a district court] should first determine whether the indigent's position seems likely to be of substance." Hodge v. Police Officers, 802 F.2d 58, 61 (2d Cir. 1986), cert. denied, 502 U.S. 986, 112 S. Ct. 596 (1991). The petitioner's claim appears to be meritless. See Abdul-Malik v. Hawk-Sawyer, 403 F.3d 72 (2d Cir. 2005). As such, no utility exists in holding an evidentiary hearing on the claim asserted through the petition. The Court finds, based upon the face of the pleadings, and the determination that an evidentiary hearing is not necessary, that appointing counsel for Jones is not warranted. See U.S. ex rel Cadogan v. LaVallee, 502 F.2d 824,826 (2d Cir.1974); see also Adams v. Greiner, No. 97 Civ. 3180, 1997WL 266984 (S.D.N.Y. May 10, 1997) (enclosed). Therefore, the plaintiff's request, that the Court appoint counsel to represent him, is denied.

Dated: New York, New York
February 3, 2010

SO ORDERED:

Mailed copy to:

Julius Jones (with enclosure)


KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE